

08-03-05

AF/3721

IFW

Doc Code: AP.PRE REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

0275S-000670

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on August 2, 2005

Signature

Typed or printed name

Claudia J. Richard

Application Number

09/788,002

Filed

February 16, 2001

First Named Inventor

Leo Dreissen

Art Unit

3721

Examiner

Michelle Lopez

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☐

attorney or agent of record.

Registration number

☒

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

45,512

Signature

Michael D. Zalobsky

Typed or printed name

(248) 641-1600

Telephone number

August 2, 2005

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐

*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

EV 406 076 184 US



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/788,002
Filing Date: February 16, 2001
Applicant: Leo Driessen
Group Art Unit: 3721
Examiner: Michelle Lopez
Title: POWER TOOL
Attorney Docket: 0275S-000670

Mail Stop AF
Director of the United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

In response to the Final Office Action mailed May 5, 2005, please consider the remarks set forth below.

Remarks begin on page 2 of this paper.

REMARKS

Claims 1-4, 6, 8-16, and 18-21 are pending in the application. Claims 1-4, 6, 8-16, and 20-21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,286,611 to Bone. Claims 18 and 19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bone as set forth for Claims 1 and 11 in view of U.S. Patent No. 4,274,304 to Curtiss or in the alternative, Appellant's admitted prior art.

Applicant respectfully submits that the Examiner has omitted one or more essential elements needed for a prima facie case of anticipation or obviousness and as such, the review of this submission in a panel review is appropriate.

Appellant initially notes that Claims 1 and 11 of the present application, the independent claims from which all other claims depend, are directed to a power tool having a tool body and one or more attachments that can be removably coupled to the tool body. Claim 1 of the present application requires that both the body and the attachment have a respective gear mechanism and that each gear mechanism facilitate a change in the rotation speed between the input and output of the respective gear mechanism. Similarly, Claim 11 of the present application requires that a first gear arrangement be disposed within the body and a second gear arrangement be disposed within the attachment and that both the first and second gear arrangements non-adjustably change a corresponding gear (rotational) ratio between an input and an output.

Appellant notes, however, that the '611 patent to Bone does not employ a tool body with a gear reduction mechanism and an attachment with another gear reduction

mechanism. Applicant notes that column 8, lines 61 through 66 of the '611 patent provide:

[in] particular, **the male cog (32) is directly attached to the motor spindle** and a severe blow to this spindle could damage the motor itself whereby recessing the cog (32) within the tool body (4) the cog itself is protected from receiving any direct blows, for example if the tool body was dropped without a head attachment. (emphasis added)

Moreover, the output speed of the cog (32) is described in column 6, lines 57 and 58 as "approaching 15,000 rpm", which further indicates that the cog (32) is directly driven by the motor without a gear reduction therebetween.

The Examiner has stated in an advisory action that "the [rejections based on Bone are] proper and the reference Bone does show a tool body 4 and an attachment 50, each of which having a separate gear reduction mechanism as shown in [col. 11, line 67 through col. 12, line 15]." This portion of the '611 patent to Bone provides:

Again in this embodiment (shown schematically) the motor (220) is connected via male and female cogs (as previously described) to the tool head drive mechanism which undergoes a dual gear reduction mechanism shown generally as (312) which employs a double gear reduction mechanism i.e. the rotary input to the tool head is passed to a conventional sun and planet gear reduction mechanism to provide a rotary output having a speed of approximately 3,000 rpm with this output then driving a second planet, sun gear reduction mechanism to provide a final output speed of approximately 800 rpm. Output of this second gear reduction mechanism then drives a conventional drive conversion mechanism for converting the rotary output to a linear reciprocating motion to operate the blade (353). This gear conversion mechanism is shown generally as (323) and will be briefly described with reference to FIG. 10b.

Applicant notes, however, that Figure 10a of the '611 patent (see below) illustrates the nibbler tool head attachment coupled to the tool body and that all of the planetary gearing is illustrated to be disposed in the tool head attachment forwardly of the pinion that is attached to the output shaft of the motor (220). Moreover, the portion of the '611 patent cited by the Examiner expressly states that the connection between the tool head and the tool body is as previously described. Accordingly, the portion of the '611 patent to Bone cited by the Examiner does not disclose a power tool configuration wherein

both the tool head attachment and the tool body utilize separate gear reductions.

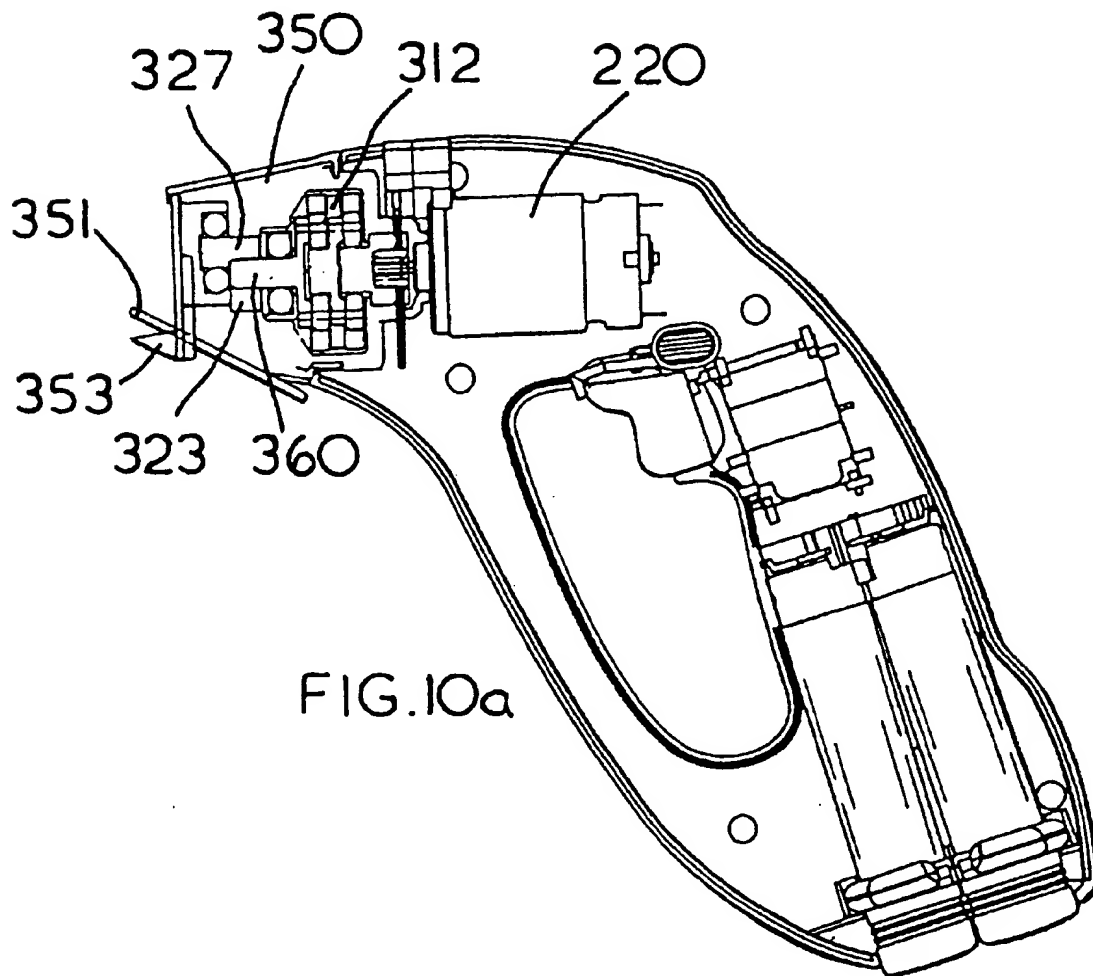


FIG. 10a

In *W.L. Gore & Associates v. Garlock, Inc.*, the Federal Circuit stated that “anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). Appellant submits that the ‘611 patent to Bone does not disclose a power tool arrangement that employs a tool body having a gear reduction mechanism and an attachment with another gear reduction mechanism and as such, Appellant submits that the Office has not presented a prima facie case of anticipation. Appellant, therefore, respectfully requests that the Office reconsider and withdraw the rejection of Claims 1-4, 6, 8-16, and 20-21 under 35 U.S.C. § 102(e).

Appellant also notes that Claims 18 and 19 depend from Claims 1 and 11, respectfully, and as such, should be in condition for allowance for the reasons set forth for Claims 1 and 11, above. Additionally, the combination of references cited by the Office in support of the rejection of Claims 18 and 19 does not teach or suggest all elements of these claims (i.e., a power tool arrangement that employs a tool body having a gear reduction mechanism and an attachment with another gear reduction mechanism) and as such, the Office has not presented a prima facie case of obviousness.

CONCLUSION

Prompt and favorable consideration of this request is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,



By: _____

Michael D. Zalobsky
Reg. No. 45,512

Dated: 2 August 2005

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

MDZ/cr